

The Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

COLOR ME HOUSE INC.,	)	No. 12-05935-RJB
	)	
Plaintiff,	)	STIPULATION AND PERMANENT
	)	INJUNCTION
vs.	)	
	)	NOTED FOR HEARING:
DISCOVERY COMMUNICATIONS, INC.,	)	July 3, 2013
and MERCHSOURCE, LLC,	)	
	)	
Defendants.	)	

**STIPULATION**

The parties jointly move the Court for entry of a permanent injunction and to close this case as follows:

1. Discovery Communications, Inc., and MerchSource, LLC, and their employees, agents, and any person or entity over which Discovery and/or MerchSource has control, are permanently enjoined from displaying, advertising, selling, or offering for sale cardboard play structures distributed by MerchSource and bearing the words "Color Me" or "COLOR ME" on their packaging ("Covered Products").

2. Discovery and MerchSource shall use all reasonable efforts to stop any person or entity to which MerchSource distributed the Covered Products from advertising the Covered Products using the words "Color Me" or "COLOR ME." The requirement to use all reasonable

STIPULATION AND PERMANENT  
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1 efforts is satisfied whereby Discovery and MerchSource, within three (3) business days of  
2 receiving notice from Color Me of an instance of a person or entity using the words "Color Me"  
3 to market cardboard products sold to it by MerchSource, contact such persons or entities  
4 (through their normal course of business contacts) to request that those persons or entities modify  
5 the description of such items to comply with the permanent injunction.

6 3. Notwithstanding anything to the contrary herein, the permanent injunction does  
7 not apply to sales of remaining inventories of Covered Products in the possession of  
8 MerchSource's customers as of the entry of this permanent injunction. Such customers will be  
9 allowed to sell through their remaining inventory of Covered Products.

10 4. The parties' claims and counterclaims otherwise shall be dismissed with  
11 prejudice, with no award of attorney's fees or costs to any party.

12 5. The Court shall retain jurisdiction over the parties for purposes of enforcing this  
13 injunction.

14 Respectfully submitted this 3<sup>rd</sup> day of July, 2013.

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STIPULATION AND PERMANENT  
INJUNCTION -- 3

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**ORDER**

Having reviewed the foregoing stipulation and deeming itself fully advised, the Court finds and orders as follows:

1. The relief requested in parties' stipulation is granted.
2. Discovery Communications, Inc., and MerchSource, LLC, and their employees, agents, and any person or entity over which Discovery and/or MerchSource has control, are permanently enjoined from displaying, advertising, selling, or offering for sale cardboard play structures distributed by MerchSource and bearing the words "Color Me" or "COLOR ME" on their packaging ("Covered Products").
3. Discovery and MerchSource shall use all reasonable efforts to stop any person or entity to which MerchSource distributed the Covered Products from advertising the Covered Products using the words "Color Me" or "COLOR ME." The requirement to use all reasonable efforts is satisfied whereby Discovery and MerchSource, within three (3) business days of receiving notice from Color Me of an instance of a person or entity using the words "Color Me" to market cardboard products sold to it by MerchSource, contact such persons or entities (through their normal course of business contacts) to request that those persons or entities modify the description of such items to comply with the permanent injunction.
4. Notwithstanding anything to the contrary herein, the permanent injunction does not apply to sales of remaining inventories of Covered Products in the possession of MerchSource's customers as of the entry of this permanent injunction. Such customers will be allowed to sell through their remaining inventory of Covered Products.
5. The parties' claims and counterclaims otherwise shall be dismissed with prejudice, with no award of attorney's fees or costs to any party.

1 DATED this 7<sup>th</sup> day of July, 2013.  
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6 ROBERT J. BRYAN  
7 United States District Judge  
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STIPULATION AND PERMANENT  
INJUNCTION -- 6

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